IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No.154 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA Sd/-
and
HON'BLE MS.JUSTICE H.N.DEVANI Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C.I.T.

Versus

ISHWARLAL JOITARAM & CO.

Appearance:

1. INCOME TAX REFERENCE No. 154 of 1991
MRS MM BHATT for Applicant No. 1
NOTICE NOT RECD BACK for Respondent No. 1
DS AFF.NOT FILED (N) for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA
and
HON'BLE MS.JUSTICE H.N.DEVANI

Date of decision: 10/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.A.MEHTA)

Heard Mrs.M.M.Bhatt, learned Standing Counsel for the applicant - Revenue. Despite issuance of fresh notice being directed on 28-07-2004 and 30-11-2004, the applicant has not been able to effect service on the respondent - assessee. Mrs.Bhatt has placed on record communication dated 03-01-2005 received from the Office of the Commissioner of Income-tax, Ahmedabad-III expressing its inability to effect service "..... because the case records of the firm is not available being the matter is very old. Moreover, address mentioned in the said notice is not complete as reported by the I.T.O., Wd. 7(1), A'bad."

2. In light of the aforesaid fact situation, in absence of service on the respondent - assessee and taking into consideration the fact that the Assessment Year is 1984-85, the amount involved is only Rs.56,658/- and the reference is of the year 1991, the question referred to the Court is left unanswered.

3. The Reference stands disposed of accordingly.

Sd/- Sd/-

[D.A.MEHTA,J] [H.N.DEVANI,J]

* * *

'Bhavesh'